IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

WP(C).No. 10405 of 2007(L)

PETITIONER:

THE SECRETARY,
QUILON DISTRICT MOTOR TRANSPORT WORKERS
CO-OPERATIVE SOCIETIES LTD., NO.Q 420,
KOLLAM.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:
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1. THE REGIONAL TRANSPORT AUTHORITY,
KOLLAM.

2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, KOLLAM.

3. NIYAS, VILAYIL PUTHENVEEDU,
KILIKOLLOOR, KOLLAM.

BY SR.GOVERNMENT PLEADER SMT.M.K.PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

WP(C)NO.10405 OF 2007-L

Judgment

The petitioner is a stage carriage operator in Kollam district. The third respondent has been granted a new permit on the route Elampalloor-Chavara. The time schedule could not be settled in a timing conference because of the objections raised by various operators. Finally, the matter was placed before the RTA. The RTA approved the time schedule for the 3rd respondent's service by Ext.P4. The petitioner filed Ext.P5 revision against the said order. The said revision was heard and dismissed by the STAT by Ext.P6. This Writ Petition is filed, challenging Exts.P4 and P6. According to the petitioner, the grant of the permit was subject to settlement of timings. No proper timing conference was held and the time schedule was not settled in a timing conference. The operators did not get proper or fair chance to object. The objection filed by the petitioner, contained in Ext.P3 was also not adverted to. So, he attacks Ext.P4. For affirming the same, Ext.P6 is also attacked. I think, the objections regarding the manner of finalisation of the time schedule is not relevant now as the matter has been considered by the STAT on merits. The relevant portion of Ext.P6 order of the STAT reads as follows :

> *"It is conceded that before the grant of permit to 3rd respondent, all services were getting only three minutes gap.*
>
> *Now, the gap of three trips of petitioner is reduced to two minutes by providing one minute gap to 3rd respondent, the new entrant.*

As per the decision in Mithilesh Garg's case, permit cannot be declined even on a well served route. If permit is granted, a timing should be allotted to the grantee. Hence on a route where services are conducted at a gap of three minutes, when a new entrant comes, he must be provided with services within the three minutes gap. The three minutes gap is distributed as one minute to the new entrant and two minutes to the existing operator. that is the only way left to the Secretary. Hence there is absolutely nothing improper with the order assailed.

In the result, the RP is dismissed."

The STAT found that various services were having only a gap of three minutes. Now, a new operator has to be given place in between the two services. So, the time gap of three minutes was divided into 1 minute and 2 minutes. The existing operator, the petitioner was given two minutes gap, whereas the new entrant has been given only one minute. The STAT also found that it was only an equitable division of the time gap available. So, there is nothing wrong with Ext.P6. It is a fair and reasonable decision. Accordingly, the Writ Petition fails and it is dismissed.

27.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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